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**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

ADMINISTRATIVE ORDER # 2007-00-09

**RE: DEPENDENCY MEDIATION PROGRAM IN CALHOUN, HOLMES, JACKSON,
AND WASHINGTON COUNTIES**

Whereas, Rule 2.215 (b) (2), Florida Rules of Judicial Administration, establishes that the chief judge of a circuit "shall exercise administrative supervision over all courts within the judicial circuit;"

Whereas, Rule 2.215 (b) (3), Florida Rules of Judicial Administration, directs the chief judge to develop an administrative plan for the efficient and proper administration of all courts within the circuit;

Whereas, mediation is a process whereby a neutral third person acts to encourage and facilitate resolution of disputes prior to judicial determination in an informal, non-adversarial manner with the goal of helping the parties reach a mutually acceptable agreement.

Whereas, Chapter 39, Florida Statutes, and Rule 8.290, Florida Rules of Juvenile Procedure, provide for mediation of dependency matters.

Whereas, Section 44.108, Florida Statutes, provides that mediation be accessible to all parties, regardless of financial status; and provides that no fee can be collected from the parties for dependency mediation.

Now Therefore, it is ORDERED and ADJUDGED that the following procedures concerning a dependency mediation program in Calhoun, Holmes, Jackson and Washington Counties shall be followed:

A. REFERRAL TO MEDIATION

1. At any stage of the dependency process, the Court may order a dependency case to mediation.
 - a. For pre-arraignment mediation, the Court may order the case to mediation at the shelter hearing.
 - i. The order to pre-arraignment mediation shall provide the location, date and time of the mediation conference and will be provided to the parties at the shelter hearing.
 - ii. If the Court orders a dependency case to pre-arraignment mediation at a shelter hearing on the weekend or after business hours, the parties will be served via US mail with an order to pre-arraignment mediation.
 - b. Child Welfare Legal Services (CWLS) will be responsible for notifying the Alternative Dispute Resolution (ADR) Director of the shelter and the order to pre-arraignment mediation the following business day.
 - c. Post-arraignment mediation orders shall be forwarded to the ADR Director and scheduling will occur within five (5) days of receipt of the order of referral.
2. The Court shall **NOT** refer any case to dependency mediation if it confirms there are criminal charges pending that arose from the child abuse allegation. Upon written motion with good cause shown, a party may apply to the court to waive the required mediation for this purpose.

B. DEFERRING OR WAIVING MEDIATION

1. The court may defer or waive mandatory mediation if it appears:
 - a. Mediation of the issues would not be appropriate under the circumstances of the case; or
 - b. Exigent circumstances require that a hearing before the judge should be expedited.
2. Either party may file a *Motion to Waive or Defer Mediation* within 10 days of the *Order Directing Parties to Mediation* being entered.
 - a. Mediation will be scheduled and occur as scheduled unless the party who filed the *Motion to Waive or Defer Mediation* receives an order granting the motion from the assigned judge.

- b. A copy of the order granting the waiver must be provided to the Alternative Dispute Resolution (ADR) Director as well as to the assigned mediator.
- c. If a deferment is granted, the order shall specify the period of the deferment, and another mediation conference will be scheduled accordingly.

C. PROCEDURES FOR SELECTION AND SCHEDULING A MEDIATOR

1. The ADR Director shall maintain a list of certified dependency mediators who have agreed to participate in the Fourteenth Judicial Circuit's Dependency Mediation Program and have signed a Professional Services Agreement.
2. Staff mediators, those full-time state employees who are also certified dependency mediators, shall also provide program mediation services to eligible parties. Such services are considered part of their full-time public service duty.
3. Parties who have the financial ability to hire a private, certified dependency mediator should do so. These parties who retain a private, certified dependency mediator do so at their own expense.
4. All mediations shall be conducted in accordance with Rule 8.290, Florida Rules of Juvenile Procedure and this administrative order.
5. Unless otherwise excused by the Court, a pre-arraignment mediation conference shall take place prior to the arraignment, typically within 28 days of the shelter hearing. Should any subsequent mediation conferences be required, those conferences shall be scheduled and conducted in an expeditious manner.
6. Once dependency mediation is scheduled and noticed by the program, it may only be cancelled by mutual written agreement of all parties at least 48-hours prior to the scheduled mediation or by order of the court. If the mediation session is cancelled, the parties shall provide notice to the ADR Director at least 48-hours prior to the scheduled mediation.

D. GENERAL GUIDELINES FOR MEDIATION

1. Mediation is a process whereby a neutral third person acts to encourage and facilitate resolution of disputes prior to judicial determination in an informal, non-adversarial manner with the goal of helping the parties reach a mutually

acceptable agreement. The mediation session is a time for all parties to attempt to work out their differences in a positive manner while maintaining the ultimate control over their case. Each party will be given the opportunity to share their side of the case with the neutral mediator who is trained to encourage cooperation and assist with facilitating an agreement. Civility and respect from all participants is expected during these sessions.

2. Parties may find it desirable to have their attorneys attend the mediation session; however, attorney attendance is **NOT** required unless otherwise ordered by the Court.
3. Pre-arraignment mediations are scheduled at the shelter hearing and will not be continued merely to accommodate for an attorney's schedule. The pre-arraignment mediation agreement is subject to later review and approval by the parties' attorney should one be appointed or retained. For parties who are not represented by counsel at the pre-arraignment mediation, the parties attending will be informed that their respective attorneys will have the opportunity to review the contents of the agreement and request modifications before the agreement is accepted by the Court. If no objections are filed prior to the arraignment hearing or none requested orally at the arraignment hearing, the agreement will be binding on the parties and will be submitted to the Court for approval as written. If an attorney or a party files a written objection or enters an objection to a pre-arraignment mediation agreement at the arraignment hearing, and the matter can not be resolved at the arraignment hearing, the agreement is not binding on the parties.
4. Typical parties at a pre-arraignment mediation include the Mother, the Father, the Big Bend Community Based Care (BBCBC) care manager or their supervisor, the protective investigator or their supervisor and the Guardian ad Litem (GAL) case coordinator or their supervisor and/or the GAL volunteer. For a mediation occurring post-arraignment, typical parties include the Mother, the Father, their attorney, if one has been appointed or retained, the Child Welfare Legal Services (CWLS) attorney, the BBCBC care manager or their supervisor, the protective investigator or their supervisor, the GAL case coordinator or their supervisor, the GAL volunteer and the GAL attorney. Parties may also include other family members, the child(ren), and other community members. BBCBC, GAL and the parents can recommend parties to include. The Court may add parties who have an interest in the proceedings.
5. If either party fails to appear at a scheduled mediation session without good cause, the mediator shall provide the judge and both parties with a notice of such failure to appear. Willful refusal to appear at a scheduled mediation without good cause shall place the offending party in jeopardy of sanctions by the court, including

contempt of court, assessment of mediator and attorney fees and other costs, the striking of pleadings or portions thereof, and/or other appropriate sanctions. The court may issue an order to show cause as to why the court should not assess fees and costs against the responsible party or parties.

6. Except as otherwise provided by Sections 44.401-406, Florida Statutes, verbal or written communications made during a mediation session or proceeding other than an executed settlement agreement are confidential and inadmissible in subsequent legal proceedings. Certified dependency mediators shall comply with required reporting procedures at the conclusion of mediation and shall report to the Court and the ADR Director attendance and non-attendance of the parties at all required mediation sessions or conferences, the existence or non-existence of mediated agreements or mediated partial agreements, and such other information to which both parties agreed to in writing.
7. If the parties reach an agreement, the agreement will be reduced to writing by the mediator. The parties will be afforded an opportunity to review the written agreement before signing. If parties are represented by an attorney, and the attorney is **NOT** present at the mediation, the agreement will be mailed to the attorney for review. The attorney shall review the agreement prior to the arraignment. BBCBC shall prepare a case plan prior to the arraignment which includes all tasks that were agreed to in the mediation agreement. If objections are made or modifications are necessary, these objections and requests for modifications can be made orally or in writing at the arraignment hearing. Absent an objection or request for modification, the agreement and subsequent case plan are presumed to be approved by the attorney and the case plan may be accepted by the court.

E. SPECIAL ACCOMMODATIONS


1. If either party is a person with a disability who needs any accommodation in order to participate in dependency mediation, they are entitled, at no cost to them, to the provisions of certain assistance. Please contact the Office of the Court Administrator, 301 McKenzie Avenue, Panama City, Florida, 32401, (850) 747-5327, within two working days within receipt of their ***Order Directing Parties to Mediation***. Parties who are hearing impaired or voice impaired must call ***1-800-955-8771***.

If either party's primary language is other than English, the non-English speaking party or his/her attorney shall refer to **Administrative Order 2007-00-02, Responsibilities and Procedures for Requesting Court Interpreters for Due Process Proceedings and for Compliance with Americans with Disabilities Act and Rule**, for procedures for locating a certified language interpreter who can assist the party during the mediation.

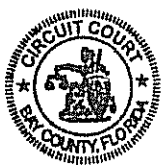
F. REPORTING ON CIRCUIT-WIDE MEDIATION BY FOURTEENTH JUDICIAL CIRCUIT DEPENDENCY MEDIATION PROGRAM

1. All dependency mediators who conduct scheduled mediation sessions for the Program shall file a copy of the mediation outcome report in the court file and provide a copy to the ADR Director. This copy will assist the ADR Director to ensure court-ordered mediations occur as required and to provide statistical data relative to the use of dependency mediation in the aforementioned counties within the 14th Judicial Circuit.
2. All parties ordered to dependency mediation may be requested to provide non-identifying information on standardized forms about the mediation process for purposes of monitoring and improving the Fourteenth Judicial Circuit's Dependency Mediation Program. Because of the non-identifying and generic nature of the data collected, the surveying of information is not deemed a violation of any confidentiality standards as otherwise required by Sections 44.401- 406, Florida Statutes, regarding communications made during a mediation session or proceeding.

DONE and ORDERED in Chambers at Panama City, Bay County, Florida, this 27 day of December, 2007.



ALLEN L. REGISTER
ADMINISTRATIVE JUVENILE JUDGE



A CERTIFIED TRUE COPY
HAROLD BAZZEL CLERK
OF THE CIRCUIT COURT
By Nanda Maddox
Deputy Clerk



HENTZ MCCLELLAN, CHIEF JUDGE